

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

March 17, 2003

IN RE:

**PETITION FOR APPROVAL OF
AMENDMENT TO INTERCONNECTION
AGREEMENT BETWEEN BELL SOUTH
TELECOMMUNICATIONS, INC. AND
ADELPHIA BUSINESS SOLUTIONS
OPERATIONS, INC. AND ADELPHIA
BUSINESS SOLUTIONS OF NASHVILLE,
LP**

DOCKET NO. 02-01309

**ORDER APPROVING
AMENDMENT TO INTERCONNECTION AGREEMENT**

This matter came before Chairman Sara Kyle, Director Deborah Taylor Tate, and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on February 18, 2003 to consider, pursuant to 47 U.S.C. § 252, the Petition for approval of the third amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and Adelphia Business Solutions Operations, Inc. and Adelphia Business Solutions of Nashville, LP.

The original interconnection agreement and first set of amendments thereto between these parties were filed on May 4, 2001 and were assigned Docket No. 01-00407. At a regularly

scheduled Authority Conference held on July 24, 2001, a majority¹ of the Directors² voted to take no action on the interconnection agreement and first set of amendments.³ The second amendment was filed on September 26, 2001 under Docket No. 01-00834 and was approved at a regularly scheduled Authority Conference on November 6, 2001. The third amendment, which is the subject of this docket, was filed on December 20, 2002.

Based upon a review of the third amendment, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously granted the Petition and made the following findings and conclusions:

- 1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104.
- 2) The amendment is in the public interest as it provides consumers with alternative sources of telecommunications services within the BellSouth Telecommunications, Inc. service area.
- 3) The amendment is not discriminatory to telecommunications service providers that are not parties thereto.
- 4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it “discriminates against a telecommunications carrier not a party to the agreement” or if the implementation of the agreement “is not consistent with the public interest,

¹ Chairman Sara Kyle did not vote with the majority. Instead, she moved to approve the interconnection agreement and first set of amendments thereto.

² The terms of the former Directors of the Authority, Chairman Sara Kyle, Director H. Lynn Greer, Jr., and Director Melvin J. Malone, expired on June 30, 2002. Chairman Sara Kyle was reappointed and commenced a new term as a Director of the Authority on July 1, 2002. Pursuant to the requirements of the amended provisions of Tenn. Code Ann. § 65-1-204, a three member voting panel consisting of Chairman Sara Kyle, Director Deborah Taylor Tate, and Director Ron Jones was randomly selected and assigned to this docket.

³ As set forth in the January 14, 2002 Order of the Authority in Docket No. 01-00407, the original interconnection agreement and amendments thereto were deemed approved on August 2, 2002, by operation of 47 U.S.C. § 252(e)(4). See *In re: Petition for Approval of the Interconnection Agreements and Amendments Thereto Negotiated Between BellSouth Telecommunications, Inc. and Adelphia Business Solutions Operations, Inc. and Adelphia Business Solutions of Nashville, LP Pursuant to the Telecommunications Act of 1996*, Docket No. 01-00407, Order, p. 6 (January 14, 2002).


convenience or necessity.” Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).⁴ Thus, although the Authority finds that neither ground for rejection of a negotiated agreement exists, this finding should not be construed to mean that the amendment is consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.

5) No person or entity has sought to intervene in this docket.

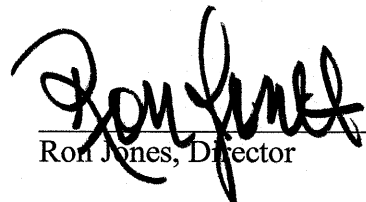
6) The amendment is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104.

IT IS THEREFORE ORDERED THAT:

The Petition is granted, and the third amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and Adelphia Business Solutions Operations, Inc. and Adelphia Business Solutions of Nashville, LP is approved and is subject to the review of the Authority as provided herein.


Sara Kyle, Chairman


Deborah Taylor Tate, Director


Ron Jones, Director

⁴ See 47 U.S.C. § 252(e)(2)(B).